

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

UNITHERM FOOD SYSTEMS, INC., )  
an Illinois corporation; and )  
JENNIE-O FOODS, INC., )  
a Minnesota corporation, )  
Plaintiffs, )  
v. )  
SWIFT-ECKRICH, INC. d/b/a/ CONAGRA )  
REFRIGERATED FOODS, )  
a Delaware corporation, )  
Defendant. )

No. CIV-01-347-C

**FILED**

MAR 12 2003

ROBERT D. DENNIS, CLERK  
U.S. DIST. COURT, WESTERN DIST. OF OKLA.  
BY                     , DEPUTY

DOCKETED

**ORDER**

Before the Court is Defendant Swift-Eckrich's Motion in Limine Re: Exclusion of Evidence Pertaining to Damages and Causation. Plaintiffs filed a Response and the matter is now at issue.

As set forth by the Court on the record and prior to trial:


Those portions of the motion seeking to exclude evidence regarding damages based on a "benefit of the bargain" theory, lost sales of other equipment, and lost sales to third parties, are denied. That portion of the motion seeking to bar evidence of lost sales to subsidiaries of Defendant is granted unless and until Plaintiffs can establish the refusal to purchase was against the interest of the subsidiary. That portion of the motion seeking to bar general evidence of lost sales is denied. However, consistent with the Court's jury instructions in this matter, Plaintiffs may not rely solely on general evidence. That portion

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of the motion seeking to exclude certain hearsay statements regarding customer impressions is denied.

As set forth more fully herein, Defendant Swift-Ekrich's Motion in Limine Re: Exclusion of Evidence Pertaining to Damages and Causation is GRANTED in part and DENIED in part.

IT IS SO ORDERED this 12 day of March, 2003.

  
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ROBIN J. CAUTHRON  
CHIEF UNITED STATES DISTRICT JUDGE